IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

Crl.MC.No. 3487 of 2007()

CMP. 2399/07 IN ST.NO.59/07 OF CHIEF JUDICIAL MAGISTRATE COURT, THODUPUZHA.

PETITIONER:

SUKUMARAN, S/O.NARAYANAN,
AGED 48 YEARS, KOCHUVEETIL,
ARAKULAM VILLAGE, MOOLAMATTOM.

BY ADV. SRI.M.V.SABU

RESPONDENTS: COMPLAINANTS:
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1. **SANKAR, S/O.KARUPAYYA,**
   MAVELATHUKUZHIYIL (H), A.K.G.NAGAR,
   MOOLAMATTOM.

2. **STATE OF KERALA REPRESENTED BY THE**
   DIRECTOR GENERAL OF PROSECUTION, HIGH COURT OF
   KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S.BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 22/11/2007 , THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

Crl.M.C. No. 3487 OF 2007

Dated this the 22nd day of November, 2007

O R D E R

The petitioner faces indictment in a prosecution under Section 138 of the Negotiable Instruments Act, 1881. Notice of demand was duly served. No reply was sent. That cheque is drawn on a cheque leaf issued to the petitioner to operate his account is not disputed. Handing over of the cheque is also not disputed. A contention is raised that the cheque was handed over as security. When the matter reached the stage of trial, a contention was interestingly raised that the signature on the facing sheet of the cheque is forged. It was admitted that the signature on the reverse of the cheque is that of the petitioner. At the defence stage, a request was made to send the cheque to the handwriting expert. The learned Magistrate, by the impugned order, rejected the said prayer. The petitioner claims to be aggrieved by the said order.

2. I shall carefully avoid any detailed discussions on merits lest it may adversely affect the interest of the petitioner at later stages of the trial, appeal or revision. I have considered all the relevant circumstances. The law frowns upon challenge against interlocutory orders during the pendency of proceedings before the court concerned.

Section 397(2) Cr.P.C. specifically proscribes revisional challenge against the interlocutory orders. The policy of law is reflected in that statutory provision clearly.

3. In spite of Section 397(2) Cr.P.C., in an appropriate case, this Court can certainly invoke the extraordinary inherent jurisdiction under section 482 Cr.P.C. But I am unable to find any features in this case which would justify or warrant the invocation of such extraordinary inherent jurisdiction under Section 438 Cr.P.C. This, I am satisfied, is an eminently fit case where the interlocutory order must wait for its challenge along with the final order, if necessary. I am satisfied that the powers under Section 482 Cr.P.C. need not be invoked to interfere with the impugned order.

4. This petition is accordingly dismissed. But I may hasten to observe that the dismissal of this petition will not in any way fetter the rights of the petitioner to raise all appropriate contentions before the learned Magistrate or to challenge the impugned order later in appeal/revision.

(R.BASANT, JUDGE)

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